IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.8854 of 2005

1. Shri Bira Aappa Mane
and others ..Petitioners

vs.

1. Shri Kerba Bira Mane
and others ..Respondents

Shri G.S.Godbole for petitioners
Shri T.S.Ingale for respondent nos.1 to 3.

CORAM: S.B.MHASE J.
9th March, 2006

P.C.

. Heard.

2. Decree for possession was passed against the petitioners in Reg.Civil Suit No.127 of 1997 on 20th December, 2002. Being aggrieved by the said decree the petitioners preferred first appeal No.40 of 2003 before the District Court at Kolhapur. The said appeal came to be dismissed for default. The petitioners, therefore, pregferred Misc.Civil Application No.41 of 2005 for restoration of First Appeal No.40 of 2003. In the said Misc.Application No.41 of 2005, the petitioners took out an application below Exh.6 for stay of execution of the decree. The said application was also

rejected on 2nd September, 2005. The petitioners, therefore, preferred the present petition.

3. Shri Ingale, learned Counsel for respondents states that after the impugned order was passed by the Appellate Court, possession of the land has been taken by the respondents and thus the decree has been executed. In view of the statement made by the learned Counsel for the respondents nothing survives in the present petition. Petition is accordingly disposed of.

4. Shri Godbole, learned Counsel prays that the Appellate Court be directed to expedite the hearing of Misc.Civil Application no.41 of 2005 pending on the file of the learned District and Sessions Judge, Jaisingpur. Shri Ingale has no objection for grant of such a request. The District and Sessions Court, Jaisingpur is directed to dispose of the Misc.Civil Application No.41 of 2005 as expeditiously as possible.

(S.B.MHASE J.)